

## REMARKS

Applicant has amended claims 13 and 15 to correct typographical errors identified by the Examiner. Claim 1 has been amended to more particularly describe the invention, specifically the structure of the means for associating the bundles with the base and that the concentric tracks include a first track of successive transparent color bars and a second track of alternating monochromatic dark and light bars. This amendment is supported in the application from the paragraph beginning on page 5 through the second full paragraph on page 6. Amended claim 1 also incorporates original claim 2, which has been cancelled. Claim 5 has also been amended to more particularly describe the invention, specifically delineating that the adaptor is formed complimentary to the top cover so that the trunk can be secured to the base. This amendment is supported by Figure 5 of the original application showing the complimentary relationship between the base and the adaptor. Claim 15 has been further amended to describe the top cover similar to amended claim 1 and to incorporate original claim 16, which has been cancelled. You will find enclosed a Marked Up Version Showing Changes Made. No new matter has been added by virtue of these amendments.

The Examiner rejected claims 1-7, 10-13, 15, and 17 under 35 U.S.C. section 103(a) as being unpatentable over Puleo, U.S. Patent No. 6,431,740 in view of Oster, U.S. Patent No. 3,536,908. Puleo discloses a fiber optic tree and an assembly with a color wheel that lights a top portion and bottom portions. Oster discloses a fiber optic lighting assembly having a turntable with two concentric rings of segmented color bars. Specifically the Examiner claims that it would have been obvious to one skilled in the art to combine the fiber optic tree of Puleo with the turntable of Oster.

Applicant's amended claim 1, original claim 10, and amended claim 17 require the light governing disk to have a concentric track of color bars and a concentric track of light and dark bars. The color bars create a color changing effect while the light and dark bars create a blinking effect. Applicant's device is thus advantageous over the prior art in that the dark and light color bars creates a blinking effect separate from the color changing effect. Puleo's fiber bundling requires the color wheel to be located on the trunk and is limited to color changing of each section in its entirety without a blinking effect. (Puleo Figure 1, Col. 8, ll: 16-19). Oster does disclose multiple concentric rings, but these rings are limited only to segments of different colors without a blinking effect. (Oster, Col. 2, ll: 59-66). For this reason, it is believed that claim 1, 10, and 15 are patentable over the prior art and in condition of allowance. As claims 3-9, 11-14, and 17 are dependent upon claims 1, 10, and 15, respectively, it is believed that these claims are also in condition for allowance.

Applicant's claim 1, 10, and 15 further requires associating fiber bundles with the base. Puleo teaches away from securing any fiber bundles to the base and passing them through the trunk. (Puleo, Col. 8, ll: 19-24). As explained in Puleo, the diameter of the trunk is kept to a relatively small size by placing the light source at the section of the tree and having fiber optic strands hang from the top section. (Pueo, Col. 8, ll. 12-24, Figure 3). Puleo thus teaches having no fibers secured to the base. (Puleo, Fig. 1, base shown as 64). For these reasons, it is believed that claim 1, 10, and 15 are patentable over the prior art and in condition of allowance. As claims 3-9, 11-14, and 17 are dependent upon claims 1, 10, and 15, respectively, it is believed that these claims are also in condition for allowance.

Applicant's invention as claimed in claim 3, 11, and 15 is advantageous over the prior art in that it claims bundling fibers at a second end, associating the bundles to the base, and then dispersing the unbundled first ends of the fibers among a plurality of branches. This configuration is shown in Figure 5 of the original application. Neither Puleo nor Oster disclose dispersing fibers among branches. Puleo specifies that the fibers terminate *at the ends* of branches, (Puleo, Col. 10, ll: 22-27) and Oster discloses terminating fibers in bundles. (Oster, Fig. 3). Because the prior art does not disclose dispersing fibers among branches, it is believed that claims 3, 11, and 15 are patentable over the prior art and in condition of allowance. As claims 4-7 and 16-17 are dependent upon claims 3 and 15, respective, it is believed that these claims are also in condition for allowance.

Applicant's invention is further advantageous over the prior art by providing a sleeve element for each of a plurality of bundles for securing the second end of the fibers as claimed in claims 4, 11, 12, and 16. Puleo discloses a cylindrical connector 35 for only one bundle, but discloses holes 40 for the remaining plurality of bundles. (Puleo, Figure 3). Oster discloses only one hole in its base for all bundles. (Oster, Figure 1). Applicant's amended claims 5 and 15 further claim an adaptor into which applicant trunk fits into that is complimentary to the top cover of the device. None of the prior art references disclose this structural element. For these reasons it is believed that claims 4, 11, 12, 16, and amended claims 5 and 15 are patentable over the prior art and in condition for allowance.

The Examiner further rejected claims 8, 9, and 14 under 35 U.S.C. section 103(a) as being unpatentable over Puleo in view of Oster and in further view of Ferguson, U.S.

Patent No. 5,820,248. Ferguson discloses a fiber optic tree having a color wheel and vent holes to release heat. Ferguson teaches vent holes in the heat generating base for the express purpose of venting heat generated by a light source. (Ferguson, Col. 5, ll: 14-17). As seen in Figure 1 of Ferguson, Ferguson further teaches placing the base in the uncovered area at the bottom of the tree. The heat generating portion of Puleo, on the other hand, is along the trunk and surrounded by a plurality of branches. (Puleao, Figure 1; Col. 7, ll: 56-63). Puleo's placement of the heat generating portion along the trunk and covered by branches would not only defeat the heat venting purpose of the vents of Ferguson but would also increases the risk of a heat related hazard from vented heat. Clearly Puleo and Ferguson teach away from purposefully venting heat in an area enclosed by synthetic branches. For these aforementioned reasons, it is believed that claims 8, 9, and 14 are patentable over the prior art and in condition of allowance.

The Applicant respectfully requests the amended claims and the application as a whole be reconsidered and suggests that the application is now in condition for allowance.

Respectfully submitted,

By:

  
Camille L. Urban - Reg. No. 46,948  
G. Brian Pingel - Reg. No. 26,216  
Brown, Winick, Graves, Gross  
Baskerville & Schoenebaum, P.L.C.  
4500 Westown Pkwy Ste 277  
West Des Moines, IA 50266-6717  
Telephone: 515/242-2400  
Facsimile: 515/242-2448

ATTORNEYS FOR APPLICANT